

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LITTLETON AND THE BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF ARAPAHOE, STATE OF COLORADO,
REGARDING A FINANCIAL CONTRIBUTION FOR RESURFACING OF KEN
CARYL AVENUE IMPROVEMENTS**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is made and entered into this ___ day of _____, 2024, by and between **CITY OF LITTLETON**, a home rule municipality of the State of Colorado ("Littleton"), and the **BOARD OF COUNTY COMMISSIONERS OF ARAPAHOE COUNTY, STATE OF COLORADO**, ("Arapahoe County"). Littleton and Arapahoe County are individually referred to herein as "Party" and collectively as the "Parties".

RECITALS

WHEREAS the Parties are authorized by §29-1-203, C.R.S. as amended, to enter into contracts or agreements for the sharing of costs for any function, service, or facility authorized to each of the cooperating or contracting parties; and

WHEREAS §29-1-203, C.R.S. as amended, clearly articulates and affirmatively expresses a state policy that authorizes political subdivisions of the State of Colorado to cooperate and contract to make the most efficient and effective use of their respective resources; and

WHEREAS Littleton received federal Highway Safety Improvement Program (HSIP) and state Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER) funds from the Colorado Department of Transportation ("CDOT") to design and implement infrastructure improvements at the following locations: i) the intersection of South Platte Canyon Road (SH 75)/South Lowell Boulevard and West Bowles Avenue; and ii) the intersection of South Platte Canyon Road (SH 75) and West Mineral Avenue. The infrastructure improvements are to enhance pedestrian and bicycle safety, to resolve traffic conflicts, to improve bus stop access, and to upgrade signal equipment (the "Project"); and

WHEREAS Littleton is the lead agency on the Project and will be responsible for its completion including producing the reports necessary to meet CDOT's grant requirements and acquiring improvements through its procurement process; and

WHEREAS Arapahoe County desires to resurface Ken Caryl Avenue from the western county line to approximately 170 feet west of Platte Canyon Road (the "Improvements"), which are outside the scope of the work for the Project; and

WHEREAS for purposes of mutual cost savings and construction efficiencies, Littleton has agreed to construct the Improvements while implementing infrastructure improvements for the Project; and

WHEREAS Littleton will expend additional costs for construction management, beyond the anticipated construction costs for the Project as shown in **Exhibit A**; and

WHEREAS, Arapahoe County has agreed to reimbursing Littleton for constructing the Improvements; and

WHEREAS, Littleton intends to complete the Project in 2024 and has determined that Arapahoe County's share of the materials, labor and construction management costs for the Improvements is estimated at \$101,930.00 (one-hundred and one thousand dollars nine hundred and thirty and 00/100 cents) ("Arapahoe County Share"); and

WHEREAS, any other improvements needed by a participating jurisdiction to participate in the Project will, unless otherwise limited, become the property and maintenance responsibility of that jurisdiction; and

WHEREAS, the Parties desire to enter into this Agreement to provide for Littleton to complete the work on the Project and for Arapahoe County to reimburse Littleton for the Arapahoe County Share; and

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, which the Parties agree is sufficient, it is hereby agreed that:

1. **Recitals**. The matters recited above are hereby incorporated into and made part of this IGA.

2. **Purpose**. The purpose of this IGA is to identify the Parties' obligations to participate in the Improvements relative to cost sharing, construction, and construction administration of the Improvements.

3. **Term**. This IGA shall be effective on the date of execution by both Parties, ("Effective Date") and terminate upon completion of the project or on a date prior as agreed to by the Parties.

4. **Project Representatives**.

(a) **Littleton Representative**. Littleton hereby designates Aaron Heumann (aheumann@littletongov.org) 303-795-3867 as the Littleton Representative to coordinate all communication with Arapahoe County related to the Project and issues arising under this IGA.

(b) **Arapahoe County Representative**. Arapahoe County hereby designates Jim Katzer (jkatzer@arapahoegov.com) 720-874-6837) as Arapahoe County Representative to coordinate all communication with Littleton related to the Project and issues arising under this IGA.

5. **Littleton Obligations**. Littleton will be responsible for the following in participating in the Improvements:

(a) Littleton shall be responsible for management and construction of the Improvements, including selection of and directions to the Contractor. The Arapahoe County Representative, however, shall be permitted to provide direction or comments to the Contractor by working through the Littleton Representative.

- (b) Acquiring Improvements using appropriate and approved procurement processes to comply with the CDOT Funding Agreement.
- (c) Establishing and managing the funds for the Improvements.
- (d) Coordinating with the Denver Regional Council of Governments (DRCOG) to submit federally required reporting information to CDOT.
- (e) Establishing and maintaining a method of prompt and efficient communication concerning the Improvements with the Arapahoe County Representative.
- (f) The Littleton Representative shall coordinate with Arapahoe County regarding the construction schedule associated with the Improvements and will provide updates to Arapahoe County concerning updates to such construction schedule. The Arapahoe County Representative will be invited to all preconstruction meetings and coordination meetings with the Contractor.
- (g) Providing all necessary or desirable expertise and experience (e.g. but not limited to legal, contract administration, engineering, financial) to manage the performance of the Contractor.

6. Arapahoe County Obligations. Arapahoe County will be responsible for the following in participating in the Improvement:

- (a) Funding the Arapahoe County Share as provided herein.
- (b) Designating an individual responsible for representing Arapahoe County who shall coordinate with the Littleton Representative in order to ensure that notification to Arapahoe County residents regarding the project schedule and other project details is consistent with the schedule and project details communicated to Littleton residents.
- (c) The Arapahoe County Representative will work with the Littleton Representative and Contractor to design and approve all traffic control required for the Improvements for those portions of the Improvements located within the Arapahoe County boundaries.
- (d) Arapahoe County may have an inspector present during work performed on the Improvements by the Contractor, and the Arapahoe County Representative shall communicate directly through the Littleton Representative to address concerns and workmanship issues as they arise during completion of the Improvements, and to address any punch list corrections.
- (e) Providing Littleton with data as requested by the Littleton Representative.
- (f) Accepting ownership and maintenance responsibility for any separate improvements requested by Arapahoe in writing and completed by Littleton on behalf of Arapahoe County.

7. **Notice.** Except as otherwise provided herein, any notice required or permitted by this IGA shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, or by other courier agreed to by both Parties, postage and fees prepaid, addressed to the party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other party. Such notice shall be deemed to have been given when deposited in the United States mail.

City of Littleton: City Manager
City of Littleton
2255 W. Berry Ave
Littleton, CO 80120

With a copy to: Littleton City Attorney
City of Littleton
2255 W. Berry Ave
Littleton, CO 80120

Arapahoe County: Director of Public Works and Development
Arapahoe County
6924 S. Lima St
Centennial, Colorado 80112

With a copy to: County Attorney
Arapahoe County
5334 S. Prince St.
Littleton, Colorado 80120

8. **CDOT Funding Agreement.** The Parties understand and agree that any work under this IGA that will receive reimbursement through the CDOT Funding Agreement must comply with state and federal procurement requirements.

9. **Payments.**

(a) The Parties agree that Arapahoe County will make payment towards the necessary, actual and reasonable costs and expenses for the Improvements, estimated to be at \$101,930.00 (one-hundred and one thousand dollars nine hundred and thirty and 00/100 cents). Arapahoe County is aware, understands, and acknowledges that the construction costs provided in this Agreement are an estimate based on the best available information and that actual construction costs may vary.

(b) Littleton will prepare and submit an electronic invoice requesting the full Arapahoe County Share within thirty (30) days of the Effective Date of this Agreement, to be paid by Arapahoe County within thirty (30) days of receipt.

(c) Upon completion of construction, actual contract construction unit prices and actual field constructed quantities for the Improvements will be tabulated (“Actual Costs”). If the Arapahoe County Share is less than the Actual Costs, Littleton will prepare and submit an electronic invoice requesting the difference the Arapahoe County Share and the Actual Costs to be paid by Arapahoe County within thirty (30) days of receipt. In the event that the Actual Costs are less the Arapahoe County Share, Littleton shall refund any funds paid in excess of the Actual Costs within thirty (30) days. In the event that Arapahoe County, in good faith, disputes the Actual Costs, Arapahoe County shall deliver a written notice to Littleton, along with a description of the dispute, within seven (7) days of receipt of the invoice. Littleton and Arapahoe County shall seek to resolve all such disputes, expeditiously and in good faith. If upon resolution, the disputed invoice is found to be in error, Littleton shall send a revised invoice to Arapahoe County for payment within thirty (30) days.

(d) If Actual Costs exceed the Arapahoe County Share plus 15% Contingency due to actual construction unit prices and actual field constructed quantities, the Parties agree to amend this Agreement to reflect the actual cost of Arapahoe County’s portion of the project and reimburse said amount to Littleton. Furthermore, Parties understand that if the Actual Cost exceeds the Arapahoe County Share plus 15% Contingency, Littleton will notify Arapahoe County and receive authorization before any additional costs are incurred on the Project.

(e) All payments by Arapahoe County to Littleton contemplated in this Agreement have been appropriated or otherwise lawfully authorized by Arapahoe County in Arapahoe County’s 2024 budget.

10. Article X, Section 20/TABOR: The Parties understand and acknowledge that Littleton and Arapahoe County are subject to Article X, § 20 of the Colorado Constitution ("TABOR"). Neither Party intends to violate the terms and requirements of TABOR by the execution of this IGA. It is understood and agreed that this IGA does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this IGA to the contrary, all payment obligations of the Parties are expressly dependent and conditioned upon the continuing availability of funds for such Party beyond the term of the Party’s current fiscal period ending upon the next succeeding December 31. Financial obligations of the Parties payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the individual paying party and other applicable law. Upon the failure to appropriate such funds, this IGA shall be terminated.

11. Agreement as Complete Integration

(a) This IGA constitutes the entire agreement of the Parties hereto. The Parties agree that there have been no representations made other than those contained herein, that this IGA constitutes their entire agreement, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.

(b) This IGA contains all of the terms agreed upon by the Parties related to the cost sharing of the Improvement. Any amendments or modifications to this IGA must be in writing executed by the Parties in order to be valid and binding.

(c) No waiver of any of the provisions of this IGA shall be deemed to constitute a waiver of any other of the provisions of this IGA, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

12. Counterparts of this Intergovernmental Agreement. This IGA may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

13. Assignment and Subcontracting. Neither party to this IGA shall assign or transfer any of its rights, duties or obligations hereunder without prior written consent of the other Party which consent may be withheld for any or no reason.

14. Liability.

(a) Each party shall be responsible for its own negligence hereunder to the extent provided by law. Neither party shall be deemed to be an agent for the other party.

(b) The provisions of this IGA shall bind and inure to the benefit of the Parties and to their respective permitted assigns.

(c) No elected official, officer, agent or employee of Littleton or Arapahoe County shall be charged personally or held contractually liable under any term or provision of this IGA, or because of any breach thereof or because of its or their execution or approval of this IGA.

15. Status of Parties

(a) The Parties enter into this IGA as separate, independent governmental entities and shall maintain as such throughout.

(b) The Parties agree and acknowledge that this IGA may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

(c) Each and every covenant, promise, or term contained in this IGA shall not merge in any other document executed by either or both Parties to effect or implement the provisions of this IGA but shall survive such instrument.

(d) The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this IGA.

16. No Third Party Beneficiaries. Except as otherwise stated herein, this IGA is intended to describe the rights and responsibilities of and between the Parties and is not intended to, and shall not be deemed to, confer rights upon any persons or entities not named as parties, nor

to limit in any way the powers and responsibilities of the Parties. Nothing contained in this IGA shall give or allow any such claim or right of action by any other or third person or entity under or pursuant to this IGA. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this IGA, receiving services or benefits under this IGA shall be deemed to be incidental beneficiaries only.

17. Severability. It is understood and agreed to by the parties hereto that if any part, term, or provision of this IGA is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the IGA did not contain the particular part, term, or provision held to be invalid.

18. Governmental Immunity. The Parties and their respective elected officials, officers, agents and employees are relying upon and do not waive or abrogate, or intend to waive or abrogate by any provision of this IGA the monetary limitations or any other rights, immunities or protections afforded by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.*, as the same may be amended from time to time.

IN WITNESS WHEREOF, the Parties have executed this IGA to be effective as of the Effective Date set forth above.

CITY OF LITTLETON

ATTEST:

Colleen Norton, City Clerk

Kyle Schlachter, Mayor

APPROVED AS TO FORM:

Reid Betzing, City Attorney

ARAPAHOE COUNTY

ATTEST:

By: County Clerk

By: Director of Public Works and Development
Authority Granted by Commissioner Reso. 24-076

APPROVED AS TO FORM:

By: _____
County Attorney

EXHIBIT A

**CITY OF LITTLETON
PLATTE CANYON (SH-75) INTERSECTION IMPROVEMENTS: BOWLES AVE AND MINERAL AVE**

ITEM NO.		UNIT	ESTIMATED UNIT COST	ARAPAHOE COUNTY	
				ESTIMATED QUANTITY	ESTIMATED COST
201-00001	CLEARING AND GRUBBING	LS	\$5,000.00	0.44	\$2,200.00
202-00240	REMOVAL OF ASPHALT MAT (PLANING)	SY	\$3.00	4,450	\$13,350.00
403-34851	HMA (GRADING SX) (100) (PG 64-28)	TON	\$100.00	490	\$49,000.00
601-07000	CONCRETE RETAINING WALL	SF	\$100.00	53	\$5,300.00
608-00006	CONCRETE SIDEWALK (6 INCH)	SY	\$80.00	276	\$22,080.00
-	CONSTRUCTION MANAGEMENT	LS	\$200,000.00	0.05	\$10,000.00
				ARAPAHOE COUNTY	
ESTIMATED TOTAL				\$101,930.00	